under penalty of perjury from the General Manager (or, if applicable, from the Chief Financial Officer) further explaining the submission at issue, its factual basis and accuracy, and any additional information LACTC deems appropriate. Should the Commission or its staff have any further questions regarding the accuracy of the information submitted, LACTC agrees to make its General Manager (or, if applicable, its Chief Financial Officer) available for deposition at the Commission's offices in San Francisco, California, upon request by the Commission or its staff.

4. No Admission of Guilt

The positions taken herein, and the actions taken in furtherance of this Agreement, are in settlement of disputed claims and are not intended to constitute admissions for any purpose other than that expressly provided in this Agreement. CACDA and LACTC agree that the actions required to be taken by them pursuant to this Agreement, are without prejudice to positions each has taken, or may hereafter take, in any proceeding including this Investigation. The Parties acknowledge and agree that the Commission's acceptance of this Agreement as no admission of guilt, pursuant to this Section 4, is an Essential Term, and is therefore not severable from other terms and conditions identified herein as Essential Terms.

5. Severability

5.1 The effectiveness of this Agreement is contingent upon the Commission's issuance of a decision approving this Agreement on terms no less favorable to LACTC or CACDA than those set forth as Essential Terms (i.e., Sections 1 and 4; paragraphs 3.1, 3.2, 3.3, 3.4, 3.5, 3.7, and 3.8; and Attachment F). These Essential Terms are material to the balance of the rights and obligations agreed to by the Parties and are, therefore, not severable. Should the Commission decide not to approve each and every Essential Term contained herein, this Agreement in its



entirety becomes null and void, unless extended by the voluntary and written agreement of both Parties.

- 5.2 All terms, covenants and conditions set forth heroin, other than the Essential Terms, represent separate and independent agreements which are severable. If any severable term is rejected by the Commission or found to be unlawful, the remaining terms of the Agreement shall be deemed valid and enforceable.
- 5.3 This Agreement is intended to provide the Commission with four optional payment structures, the choice of any one of which shall not render this Agreement null and void so long as the total payments due hereunder are not increased or decreased.
- 5.4 The Parties recognize and accept the risk that the Commission may not approve this Agreement in its entirety, and agree to negotiate in good faith concerning any extension of this Agreement if all terms and conditions are not approved.

6. Miscellaneous

6.1 Complete Settlement. This Agreement is intended to resolve all matters within the Scope of the Investigation, with the exception of the three sites subject to the OSCs and which are addressed in the context of a separate settlement agreement. The Parties have expended their best efforts to identify all sites and advice letters within the Scope of the Investigation, and to secure the release of all Commission-imposed liability for the sites identified in Attachments A through C as well as any other advice letter or associated site that is later identified as within the Scope of the Investigation as provided for in paragraphs 3.7 and 3.8.



- 6.2 <u>Authority</u>. Each Party represents that the person executing this Agreement on its behalf has been duly authorized by that Party to execute this Agreement on its behalf.
- 6.3 Advice of Counsel. Each Party acknowledges that it has had the opportunity to obtain independent legal counsel in connection with the negotiation and consideration of this Agreement, and that each Party understands the meaning of each term of this Agreement and further understands the consequences of signing this Agreement.
- 6.4 <u>Headings and Recitals.</u> The headings and recitals contained herein are not intended to have interpretive significance, are provided merely for convenience and clarity, and shall not affect in any way the rights and obligations of either Party to this Agreement.
- 6.5 Integration. This Agreement contains the entire agreement between the Parties. All previous understandings, agreements, and communications prior to the date hereof, whether express or implied, oral or written, relating to the subject matter of this Agreement are fully and completely extinguished and superseded by this Agreement.
- 6.6 <u>Modification</u>. This Agreement shall not be altered, amended, modified or otherwise changed by the Parties except by a writing duly signed by an authorized representative of each Party. The Parties agree not to exercise their statutory right to petition the Commission to modify the decision, if any, approving the Agreement in whole or in part.
- 6.7 Default. LACTC shall be deemed in default of its payment obligations under this Agreement if payment is not received within 10 days after its due date. A default shall be cured by payment of all overdue amounts together with interest accrued at the annual rate of 12 percent (one percent per month) or the maximum allowed by law, if that maximum is greater, prorated for the number of



days from the due date to the date of payment curing the default. LACTC shall be hable for payment of all costs for collection of any amounts due and owing, including reasonable attorneys fees incurred by the Commission or any agent or designated representative thereof, and including interest as provided herein.

- 6.8 Third-Party Beneficiaries. Nothing in this Agreement shall be construed to create rights in, or to grant remedies to, any third-party as a beneficiary of this Agreement, except as expressly set forth in this paragraph and in paragraph 3.2, or of any duty, obligation or undertaking established herein. However, to the extent LACTC undertakes obligations pursuant to this Agreement to voluntarily remove certain Facilities and to restore the site to its original condition to the best of LACTC's abilities, LACTC agrees not to oppose the enforcement of such removal in any forum and without respect to the entity seeking enforcement; provided that all of the actions specified herein and Attachment F giving rise to the obligation to remove including an opportunity to be heard by the Commission Advisory and Compliance Division's Manager of the Environmental and Energy Advisory Branch (or that individual's functional equivalent as provided for in Attachment F) have occurred.
- 6.9 Assignability. No voluntary transfer of this Agreement or the obligations and rights of LACTC under this Agreement shall be made without the written consent and approval of a duly authorized Commission representative, except to a successor in operation of LACTC's system and properties. Any successor or assignee of the rights of LACTC, whether by voluntary transfer, judicial or foreclosure sale or otherwise, shall be subject to all the provisions and conditions of this Agreement to the same extent as though such successor or assignee were the original Party under this Agreement. No assignment or transfer of any rights under this Agreement shall be effective unless and until the assignee or transferee agrees in writing to assume all of the obligations of the assignor or transferor and to be



bound by all of the provisions and conditions of this Agreement. The execution of a mortgage or trust deed or a judicial or foreclosure sale made thereunder shall not be deemed a voluntary transfer within the meaning of this paragraph.

- 6.10 Precedent. Nothing contained in this Agreement shall be construed to establish any precedent regarding LACTC for any future agreement, or to grant any rights or to impose any obligations on LACTC beyond the terms and conditions of this Agreement. However, LACTC shall not oppose before the Commission, in any future compliance proceedings concerning its siting practices, the relevance or appropriateness of the allocation of LACTC's payments pursuant to Schedule 1 of Attachment E and without respect to the Schedule adopted by the Commission.
- 6.11 Waiver. Any waiver of any right under this Agreement by either Party shall not be deemed a waiver with respect to any subsequent default or other right set forth herein.
- Agreement to the press or other interested parties shall be consistent with the spirit of this Agreement and with the opinions expressed in the Recitals. The Parties shall refrain from making accusations or other statements likely to be offensive to the other Party. Any doubts concerning statements that satisfy this obligation should be resolved conservatively, either by verbal consent of the other Party or by refraining, from the statement contemplated. Both Parties agree to refrain entirely from attributing any particular intent or opinion to the other Party not specified herein.
- 6.13 Governing Law. This Agreement shall be governed by the laws of the State of California.
- 6.14 <u>Counterparts.</u> This Agreement may be executed in counterparts, and upon execution by both Parties, each executed counterpart shall have the same force and effect as an original instrument and as if both Parties had signed the same



instrument. Any signature page of this Agreement may be detached from any		
counterpart	t of this Agreement without impairing the legal effect of the si	gnature.
	Los Angeles Cellular Teleph	ione Co.
Dated:	By:By:	l Manager
APPROVEL	D AS TO FORM:	one Co
Dated:	By: Erich H. Everba Vice President & General Co	ch
Dated: 7	Prima Legal Services By: Lee Burdick Attorney for Los Angeles Cellular Tel. Co	disk

California Public Utilities Commission Legal Division

Dated. 2/28/94

y: Paraller V (vl

Attorney for the CACDA

ATTACHMENT A

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All Sites Currently Subject To The OII Investigation

Line Number	Sito / Name	Adviça Letter No.	Class of Site
1	9 - Soledad	None filed	A
2	13 - Narca	None filed	Д
3	20 - Mid Wilshire	199	Α
4	25 - Upland	None filed	A
5	59 - Vernon	200	А
6	95 - Beverly/Rossmore	84	A
7	101 - Afton	85	Α
8	102 - Sepulveda Pass	60	Α
9	107 - Baker	None filed	A
10	115 - Harbor & 405	131	А
11	117 - Black Rock	181	ខ
12	118 - UCI	100	А
13	119 - W. Hollywood	48	А
14	145 - Winetka	49	А
15	147 - Beverly Hills	157	A
16	154 - Goffs Butte	138	Α



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Line	Site / Name	Advice	Class of
Number	Site / Name	Letter No.	Site
17	158 - West Covina	54	А
18	161 - Palm Springs	None filed	А
19	169 - E. Anaheim	43	Α
20	171 - Wilshire & 8th	50	А
21	172 - Encino	34	Α
22	173 - Westwood	35	A
23	175 - Irvine	61	А
24	176 - Westlake Village	87	Α
25	178 - Malibu	40	А
26	179 - Culver City	\$5	А
27	180 - Pacific Palisade	68	А
28	181 - E. Costa Mesa	56	Α
29	182 - Wilshire/West.	69	А
30	183 - Buena Park	क्क	A
31	184 - N. Santa Monica	66	A
32	185 - 55 / MacArthur	62	Α
33	187 - 91 Fwy & Central	70	А
34	188 - W. Santa Ana	88	Λ
35	189 - Palms (405/10)	63	А
36	190 - Hawthome	65	A
37	191 - 5 / 170 Fwy	171	В

Line	Site / Name	Advice	Class of
Number		Letter No.	Site
38	193 - Marina Del Rey	71	А
39	194 - 10 / 110 Fwys	57	Α
40	195 - Downtown	36	А
41	196 - Beverly / Fairfax	126	Δ
42	197 - 101 / 2 Fwys	39	А
43	198 - Westchester	137	Α
44	199 - Northridge	83	А
45	200 - Southgate	38	٨
46	201 - Studio City	51	А
47	202 - 710 / 5 Hwy	81	A
48	203 - Corona	170	В
49	204 - Stanton	41	Δ
50	205 - Sepulveda / 110	177	R
51	207 - Chino	132	А
52	208 - Inglewood	139	А
53	209 - N. Hallywood II	203	8
54	211 - Manhattan Beach	173	8
55	212 - Srita Monica/101	58	А
5,6	214 - Huntington Beach	42	А
57	218 - Norwalk	140	А
58	219 - Los Altos	52	А



Line Number	Site / Name	Advice Letter No.	Class of Site
59	221 - 10 / 215 Fwys	90	A
60	222 - Industry	72	A
61	223 - Mantebella	204	8
62	224 - Glendale II	159	A
63	225 - E. Huntington Bch	64	Α
64	227 - Hemet	133	Α
65	228 - N.E. Snta Monica	82	А
66	229 - Venice II	127	A
67	230 - El Segundo	134	Α
68	234 - Washington/15th	89	A
69	235 - Santa Marguerita	151	A
70	236 - Olympic/Westwood	59	А
71	237 - 405/Culver Blvd	205	8
72	238 - Santa Ana East	91	Α
73	239 - Newport Heights	158	A
74	241 - Gardena	73	A
75	241 Gardena Switch	394	А
76	242 - Vets Cemetary I	74	А
77 /:	243 - West Tarzana	92	А
78	244 - Beliflower / 405	154	A
79	245 - 5 / 405 Fwys	206	8

Line Number	Site / Name	Advice Letter No.	Class of Site
80	246 - Modjeska	164	В
81	247 - Burbank Airport	155	А
82	249 - Sylmar	94	Α
83	250 - Santa Anita Park	95	А
84	253 - Pearblossom	207	ಕ
85	254 - Lucerne Valley	110	А
86	255 - Mecca	182	8
87	256 - Chuckwalla	183	В
85	257 - Arrowhead	111	A
89	259 - Johnson Valley	112	Α
90	260 - Amboy / Kelbaker	184	В
91	261 - Needles	185	В
92	262 Hevasu	113	А
93	263 - Iron Mountain	165	73
94	264 - Yucca Valley	141	Α
95	266 - Sheephole Pass	114	A
96	267 - Black Mntn	195	8
97	268 - Red Mntn	115	A
98	269 - Lancaster	230	B
99	270 - Mohawk Sprgs	115	Α
100	271 - Rénoville	117	А



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Line	Site / Name	Advice	I Observe and
Number	3164 \ [4311]G	Letter No.	Class of Site
101	273 - Rodman	142	A
102	274 - Boron	118	А
103	275 - Ridgecrest	119	۸
104	276 - Midland	231	В
105	278 - Pinto Valley	120	Α
106	279 - Kelso Sands	186	B
107	280 - Shadow Mtn.	128	Α
108	281 - Old Woman Math	121	A
109	283 - 101 Vineland	135	Α
110	284 - San Pedro	143	Α
111	285 - Corona East	174	В
112	286 - 134 / Figueros	97	A
113	287 - Arcadia	129	Α
114	288 - S. Laguna	1 អូម	R
115	292 - 57 / 60 Fwys	160	A
116	298 - Buena Vista	208	B
117	301 - Downtown	182	А
118	302 - Reseda	136	٨
119	303 - 10 Fwy/New Ave	175	В
120	305 - Edinger/Springdl	161	ß
121	308 - Vermont & Pico	209	₿

Line Number	Site / Name	Advice Letter No.	Class of Site
122	310 - Snra Mon/Wilshr	193	Α
123	312 - La Tiejra & 405	189	8
124	313 - Del Amo / 605	153	A
125	314 - Paramount/Flor.	146	Α
126	317 - Indian Truck	187	B
127	320 - 405 fwy / Sunset	162	А
128	325 - 2990 S. Sepulveda	149	А
129	326 - Sta Monica/Ovind	150	А
130	329 - Robertson/Olymp.	211	A
131	330 - La Cienaga/Mel.	137	А
132	331 - Farmers Market	176	ß
133	332 - 710 / 91 Fwys	213	A
134	336 · Montclair	190	В
135	343 - Engi no East	169	8
136	344 - Van Nuys	212	A
137	358 - 10 Fwy & Main	177	В
138	370 - Van Nuys	210	ġ
139	371 - Sherman Oaks E.	201	۸
1,40	376 - S. Radondo Beach	198	٨
147	380 - Rolling Hills	191	8
142	399 - Liesure World	192	8

Number		Letter No.	Site
143	428 - Hollywood West	178	139
144	430 - Yucca II	196	8
145	431 - Ft. Irwin	130	Д
146	432 - Kilbeck Hills	194	8
147	433 - Calumet	197	B
148	434 - Deep Space II	147	А
149	447 - Turquoise *	None filed	Д

^{*} Advice Letter 265 is pending for modification of this site.

Attachment B

Advice Letters Subject to Pending Motion to Add to the Investigation

The following advice letters were filed by LACTC for authorization to modify sites that were identified as subject to the Appendix B filing requirements in the Investigation. These advice letters were rejected by CACD, and LACTC was directed to move them into the Investigation, which it did on or about November 1, 1993. These advice letters are still pending Commission action. The Parties intend that the advice letters be included in the scope of this Agreement.

Site	Advice Letter Number
120 - North Orange Drive	342
303 - 10 Freeway & New Avenue	352
317 - Indian Truck	392
399 - Leisure World	403

Attachment C

Advice Letters the Parties Agree to Submit to the Investigation

LACTC filed the following advice letters for authorization to modify sites, which LACTC believed at the time were subject to the Appendix A and B filing requirements in the Investigation. Three of these advice letters were rejected by CACD, and LACTC was directed by resolution to bring a motion seeking to add them to the Investigation, which it has not done in anticipation of resolving CACDA's asserted claims through settlement. These three advice letters are designated by the symbol "(R)." LACTC submitted a fourth advice letter, which may be rejected by CACD for the same reason. This advice letter is designated by the symbol "(R*)." Several of the advice letters listed below represent filings that contained inaccurate statements regarding the status of the Commission's approval of underlying facilities. These filings are designated by the symbol "(I)." The Parties intend that all the advice letters listed below be included in the ecope of this Agreement.

Site	Advice Letter Number
246 - Modjeska (l)	292
253 - Pearblossom (I)	346
257 - Arrowhead (R)	414
200 - Amboy/Kelbaker (I)	379
261 - Needles (R*)	441
283 - 101 Vineland (R)	425
297 - Morano Valley (1)	319
302 - Reseda (K)	427
308 - Vermont & Pico (I)	333
353 - Perris School (1)	29 5
i e	

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Attachment D

Schedule 1

Public Notice

LACTC shall publish a public notice to be placed in the publications of general circulation identified in Schedule 2 of Attachment D. Each publication of the notice shall be at least one-quarter of a newspaper page in size; visibly placed in the main news section of the publication that is distributed throughout the newspapers' area of circulation; placed on the top-half of the page above the fold; and shall be published in a Sunday edition.

The following language has been agreed to by the Parties as adequate to satisfy the public notice obligation under this Agreement:

ATTENTION

Los Angeles Cellular Telephone Company ("LA Cellular") has been investigated by the California Public Utilities Commission for the company's failure in some cases to comply fully with all of the Commission's rules and regulations for constructing cellular facilities. The Commission only authorizes construction of cellular facilities that have obtained all requisite permits and approvals from other government agencies.

LA Cellular reaffirms its commitment to providing the highest quality cellular service throughout its service area and to complying with all federal, state and local laws, including giving the public

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required notice and an opportunity to be heard concerning construction of its facilities.

LA Cellular apologizes for any inconvenience its failure to comply fully may have caused the public authorities, LA Cellular's subscribers, and the public in general.

If you have any comments or concerns regarding this notice, please contact:

California Public Utilities Commission Attn: Kent Wheatland 505 Van Ness Avenue San Francisco, CA 94102

Attachment D

Schedule 2

Publication of the Notice

Los Angeles Cellular Telephone Company ("LACTC") provides cellular telecommunications service in four California counties: Los Angeles County; Orange County; Riverside County; and San Bernardino County. LACTC contacted the Chambers of Commerce in each respective county to determine the largest circulating newspaper for each. The following newspapers represent the papers of general circulation in each county:

Los Angeles County:

The Los Angeles Times

Orange County:

The Orange County Register

Riverside County:

The Press Enterprise

San Bernardino County:

The Sun

Pursuant to this Agreement, LACTC has agreed to publish the public notice shown in Attachment D, Schedule I, in each of the papers indicated above. In addition, LACTC agrees to publish the notice in the following counties and their respective newspapers of general disculation:

Sacramento County:

The Sacramento Bee

San Francisco County:

The San Francisco Chronicle

In the event that LACTC publishes the notice prior to the Commission's adoption of a decision approving this Agreement, such publication shall be deemed to have been pursuant to the terms of this Agreement.

Attachment E

Schedule 1

Contribution to the General Fund

This Schedule 1 reflects payments specifically associated with alleged violations. Pursuant to this Schedule, the entire Settlement Amount shall be paid directly to the State General Fund.

Premature Constructions

Those sites for which it is alleged construction began prior to: (a) Commission authorization of Construction; or (b) submission of an advice letter and an undertaking meeting CACD's requirements.

No. of Sites

136

Value Associated with disputed violations

\$ 22,536.76

Total Premature Construction

\$ 3,065,000.00

Permitting Claims:

Those sites for which it is alleged Construction began prior to obtaining required permits or approvals from other government agencies.

No. of Sites

33

Value Associated with disputed violations

\$ 35,000.00

Total Permitting Claims

\$ 1,155,000.00

Filing Errors:

Those advice letter filings designated in Attachment C allegedly submitted with erroneous information concerning the status of the Commission's approval of the underlying facilities, and which were noted with the symbol "(I)."

No. of Filings

6

Value Associated with disputed violations

\$ 25,000.00

Inaccurate Statements re Underlying
Site Approvals

\$ 150,000.00

TOTAL SETTLEMENT AMOUNT

\$ 4,370,000.00

All payments pursuant to this Schedule 1 will be made to the State Ceneral Fund on or before the following dates in the amounts shown:

Within 10 Business Days after the Effective Date* \$ 1,456,666.00

One Year from the Effective Date \$ 1,456,667.00

Two Years from the Effective Date

\$ 1,456,667.00

The "Effective Date" is defined as the date the Commission's decision approving this Agreement becomes final and nonappealable.

Attachment E

Schedule 2

Contribution to the General Fund and to the Cell Siting Trust Fund

Pursuant to this Schedule 2, no specific values are associated with individual sites or alleged, fact-specific violations. Rather the Agreement contemplates that the Commission may wish to implement a Cellular Siting Trust Fund to facilitate its monitoring of cellular facilities-based carrier activities and the permitting and approval requirements of other government agencies. Thus, under this Schedule 2, the entire Settlement Amount shall be paid to the accounts shown in the following amounts on or before the dates indicated:

Within 10 Business Days after the Effective Date:

State General Fund

\$ 1,238,166.00

Cellular Siting Trust Fund

\$ 218,500.00

One Year from the Effective Date:

State General Fund

\$ 1,456,667.00

Two Years from the Effective Date:

State General Fund

\$ 1,456,667.00

Total Settlement Amount

\$ 4,370,000.00

The "Effective Date" is defined as the date the Commission's decision approving this Agreement becomes final and nonappealable.

Attachment E

Schedule 3

Contribution to the General Fund and to Environmental Mitigation

Pursuant to this Schedule 3, no specific values are associated with individual eites or alleged, fact-specific violations. Rather the Agreement contemplates that the Commission may wish to put some of the payments toward environmental mitigation. The Parties agree that such a use of the payments hereunder would be a constructive result. Thus, under this Schedule 3, the entire Settlement Amount shall be paid to the accounts shown in the following amounts on or before the dates indicated:

Within 10 Business Days after the Effective Date:

State General Fund

\$ 1,238,166.00

State Dept. of Fish and Game

\$ 218,500.00

One Year from the Effective Date:

State General Fund

\$ 1,238,167.00

State Dept. of Fish and Game

\$ 218,500,00

Two Years from the Effective Date:

State General Fund

\$ 1,238,167.00

State Dept. of Fish and Game

\$ 218,500.00

Total Settlement Amount

\$ 4,370,000.00

The "Effective Date" is defined as the date the Commission's decision approving this Agreement becomes final and nonappealable.